

### REMARKS

In response to the Restriction Requirement and Species Election Requirement dated October 5, 2007, applicants elect **Group I**, drawn to a composition, for examination at this time.

In addition, with regard to the two water soluble polymers recited in original claim 13, Applicants elect methoxypolyethylene glycol (MePEG) for the initial examination. With regard to the insoluble polymer species of original claims 3-12, 16-18 and 43-52, applicants elect the triblock copolymer of original claim 12, [poly (DL-lactide-co- $\epsilon$ -caprolactone)]-[polyethylene glycol]-[poly(DL-lactide-co- $\epsilon$ -caprolactone)] for the initial examination.

Original claims 2-4 and claims 6-62 have been canceled. Claims 63-93 are new. Claims 1 and 5 have been amended. Support for the amendments can be found, for example, on page 15, lines 8-12 and original claims as filed. No new matter is being introduced. In addition, the specification has been amended to correct a typographical error.

Upon entry of these amendments, claims 1, 5 and 63-93 will be pending. Claims 1, 5 and 63-93 read on the elected species.

The subject application was filed to continue prosecution of U.S. Patent Application No. 09/181,582 (hereafter "the parent application", filed October 28, 1998). In the parent application, Applicants had entered an amendment on September 18, 2002 in response to a non-final office action. Subsequently, by final Office Action mailed December 28, 2002, the Examiner found claims 73-74 and 92-98 (of the amendment of September 18, 2002) allowable if rewritten into independent form including the limitations of the base claim and the intervening claims.

By the present preliminary amendment, applicants have included new claims based on the allowable claims filed in the amendment of the parent application:

(1) new independent claim 73 corresponds to *allowable* claim 73 and further incorporates base claim 1 of the amendment filed in the parent application. Accordingly, new claim 73 is in condition for allowance;

(2) new independent claim 74 corresponds to *allowable* claim 74 and further incorporates base claim 1, and intervening claims 5 and 65-66 of the amendment filed in the parent application. Accordingly, new claim 74 and its dependent claims 75-82 are in condition for allowance; and

(3) new independent claim 83 corresponds to *allowable* claim 92 and further incorporates base claim 1, and intervening claims 5 and 71 of the amendment filed in the parent application. Accordingly, new claim 83 and its dependent claims 84-89 are in condition for allowance.

Finally, claim 1 as amended herein specifies that the insoluble block copolymer and the soluble polymer are at a weight ratio within the range of 30:70 to 70:30, and that the polymeric drug delivery system is injectable at 25°C. Applicants submit that Zhang, Hunter, Cha, Youxin or any combination thereof (all cited in final office action mailed December 28, 2002) do not suggest the recited range of the weight ratio. Applicants have discovered that the recited polymeric delivery system had unexpected properties such that it is injectable at room temperature and can solidify at physiological conditions in the presence of the hydrophobic drug, *see, e.g.*, page 15, lines 21-28, page 16, lines 1-4 and Example 7. Such property was associated with adjusting the relative amounts of the insoluble polymer and the soluble polymer components. There is no disclosure or suggestion for one skilled in the art to extrapolate from the cited references in order to arrived at the claimed features. Accordingly, applicants submit that claim 1, as amended, and its dependent claims are patentable over the cited references.

Application No. 10/721,835

Response to Restriction Requirement mailed October 5, 2007

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. Applicants respectfully request the issuance of a timely Notice of Allowance.

Respectfully submitted,  
Seed Intellectual Property Law Group PLLC

/Hai Han/

Hai Han, Ph.D.

Registration No. 54,150

HXH:trl

701 Fifth Avenue, Suite 5400

Seattle, Washington 98104

Phone: (206) 622-4900

Fax: (206) 682-6031

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